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6 CALIFORNIA COMMUNITIES AGAINST TOXICS
7

8 **UNITED STATES DISTRICT COURT**
9 **CENTRAL DISTRICT OF CALIFORNIA**

10 CALIFORNIA COMMUNITIES
11 AGAINST TOXICS, a non-profit
corporation,

12 Plaintiff,

13 vs.

14 MATTCO FORGE, INC., a
15 corporation, DOES 1 through 10,

16 Defendants.

17 Case No. _____
18

19 COMPLAINT FOR DECLARATORY
AND INJUNCTIVE RELIEF AND
CIVIL PENALTIES

20 (Federal Water Pollution Control Act, 33
U.S.C. §§ 1251 to 1387)

21 CALIFORNIA COMMUNITIES AGAINST TOXICS (“CCAT” or “Plaintiff”),
22 a California non-profit corporation, by and through its counsel, hereby alleges:

23 **I. INTRODUCTION**

24 1. This complaint seeks relief for ongoing and continuous violations by
25 Mattco Forge, Inc. (“Defendant” or “MATTCO”) of the Federal Water Pollution
26 Control Act, 33 U.S.C. § 1251, *et seq.* (the “Clean Water Act” or “Act”) and the
27
28

National Pollutant Discharge Elimination System (“NPDES”) Permit No. CA S000001, State Water Resources Control Board Water Quality Order No. 91-13-DWQ, as amended by Water Quality Order No. 92-12-DWQ, Water Quality Order No. 97-03-DWQ and Order No. 2014-0057-DWQ (“Permit” or “General Permit”), resulting from those industrial facilities owned and operated by MATTCO at and/or near 16443 Minnesota Avenue and 7530 Jackson Street in Paramount, California (collectively the “Facilities”).

2. Millions of gallons of polluted storm water originating from industrial operations like those conducted at the Facilities pour into storm drains and local waterways during every significant rainfall event. The consensus among agencies and water quality specialists is that this pollution accounts for more than half of the total pollution entering surface waters each year.

3. Industrial facilities, like the Defendant’s, that discharge storm water and non-storm water contaminated with sediment, heavy metals, and other pollutants contribute to the impairment of downstream waters and aquatic dependent wildlife, expose people to such toxins, and harm the aesthetic and recreational significance Los Angeles’ waterways have for residents of these communities and visitors alike.

II. JURISDICTION AND VENUE

4. This is a civil suit brought under the citizen suit enforcement provisions of the Act. This Court has subject matter jurisdiction over the parties and the subject matter of this action pursuant to Section 505(a)(1)(A) of the Act, 33 U.S.C. §

1 1365(a)(1)(A), and 28 U.S.C. § 1331 (an action arising under the laws of the United
2 States). The relief requested is authorized pursuant to 28 U.S.C. §§ 2201–02 (power
3 to issue declaratory relief in case of actual controversy and further necessary relief
4 based on such a declaration); 33 U.S.C. §§ 1319(b), 1365(a) (injunctive relief); and 33
5 U.S.C. §§ 1319(d), 1365(a) (civil penalties).

7 5. On March 2, 2017 CCAT issued a sixty (60) day “Notice of Violation
8 and Intent to File Suit” letter (“Notice Letter”) to MATTCO, including its registered
9 agent for service of process, for its violations of both substantive and procedural
10 provisions of the Act and Permit. The Notice Letter informed the Defendants of
11 CCAT’s intent to file suit against it to enforce the Act and Permit.

14 6. The Notice Letter was also sent to the Attorney General of the United
15 States, the Administrator of the United States Environmental Protection Agency
16 (“EPA”); the Administrator of EPA Region IX; the Executive Director of the State
17 Water Resources Control Board (“State Board”); and the Executive Officer of the
18 California Regional Water Quality Control Board, Los Angeles Region (“Regional
19 Board”), as required by the Act, 33 U.S.C. § 1365(b)(1)(A). A true and correct copy
20 of the Notice Letter is attached as **EXHIBIT A**, and is incorporated by reference.

24 7. More than sixty (60) days have passed since the Notice Letter was served
25 on MATTCO and the federal and State agencies.

27 8. Plaintiff is informed and believes, and thereupon alleges, that neither the
28 EPA nor the State of California has commenced or is diligently prosecuting a court
COMPLAINT

1 action to redress the violations alleged in this complaint.

2 9. This action's claim for civil penalties is not barred by any prior
3 administrative penalty under Section 309(g) of the Act, 33 U.S.C. § 1319(g).
4

5 10. Venue is proper in the Central District of California pursuant to Section
6 505(c)(1) of the Act, 33 U.S.C. § 1365(c)(1), because the source of the violations is
7 located within this judicial district.
8

9 **III. PARTIES**

10 11. Plaintiff is a non-profit public benefit corporation organized under the
11 laws of the State of California with its main office in Rosamond, California.
12

13 12. CCAT is a coalition of more than 70 non-profit corporations and
14 community associations around the State of California. CCAT is dedicated to
15 working with communities to advocate for environmental justice and pollution
16 prevention for the benefit of California's human and natural communities.
17

18 13. CCAT has members living in and around Paramount, as well as
19 throughout the Los Angeles River Watershed. CCAT and its members are deeply
20 concerned with protecting public health and the environment in and around their
21 communities.
22

23 14. The unlawful discharge of pollutants from the Facilities into the Los
24 Angeles River and downstream waters impairs the ability of CCAT's members to use
25 and enjoy these waters. Thus, the interests of CCAT members have been, are being,
26 and will continue to be adversely affected by the Facilities' failure to comply with the
27
28 COMPLAINT

1 Clean Water Act and General Permit. The relief sought herein will redress the harms
2 to Plaintiff caused by Defendant(s)' activities.

3 15. Continuing commission of the acts and omissions alleged herein will
4 irreparably harm Plaintiff and its members, for which they have no plain, speedy or
5 adequate remedy at law.

6 16. Plaintiff alleges on information and belief that MATTCO is an active
7 California corporation.

8 17. MATTCO filed a Notice of Intent to Comply With the Terms of the
9 General Permit to Discharge Storm Water Associated with Industrial Activity ("NOI")
10 on June 25, 2015 ("2015 NOI").

11 18. Upon information and belief, Plaintiff alleges that the true names, or
12 capacities of DOES 1 through 10, inclusive (the "DOES"), whether individual,
13 corporate, associate or otherwise, are presently unknown to Plaintiff, who therefore
14 sue said Defendants by such fictitious names. Plaintiff will amend this Complaint to
15 show their true names and capacities when the same have been ascertained. Whether
16 or not MATTCO is associated with any other individual, corporate, associate or
17 otherwise was not immediately apparent through CCAT's initial investigation.
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19 19. MATTCO and DOES 1 through 10 are referred to collectively
20 throughout this Complaint as Defendant or Defendants.

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24 **IV. LEGAL BACKGROUND**

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27 **A. The Clean Water Act.**

1 20. Section 301(a) of the Act, 33 U.S.C. § 1311(a), prohibits the discharge of
2 any pollutant into waters of the United States unless the discharge complies with
3 various enumerated sections of the statute. Among other things, section 301(a)
4 prohibits discharges not authorized by, or in violation of, the terms of NPDES permits
5 issued pursuant to section 402 of the Act, 33 U.S.C. §§ 1311(a) and 1342(b). The Act
6 requires all point source discharges of pollutants to waters of the United States be
7 regulated by an NPDES permit. 33 U.S.C. § 1311(a); *see* 40 C.F.R. § 122.26(c)(1).

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10 21. “Waters of the United States” are defined as “navigable waters,” and “all
11 waters which are currently used, were used in the past, or may be susceptible to use in
12 interstate or foreign commerce, including waters which are subject to the ebb and flow
13 of the tide.” 33 U.S.C. § 1362(7); 40 C.F.R. § 122.2.
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16 22. The EPA promulgated regulations defining “waters of the United States.”
17 *See* 40 C.F.R. § 122.2. The EPA interprets waters of the United States to include not
18 only traditionally navigable waters, but also other waters, including waters tributary to
19 navigable waters, wetlands adjacent to navigable waters, and intermittent streams that
20 could affect interstate commerce.
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23 23. The Act confers jurisdiction over waters that are tributaries to
24 traditionally navigable waters where the water at issue has a significant nexus to the
25 navigable water. *See Rapanos v. United States*, 547 U.S. 715 (2006); *see also N. Cal.*
26 *River Watch v. City of Healdsburg*, 496 F.3d 993 (9th Cir. 2007).
27
28

29 24. A significant nexus is established if the water in question “either alone or
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1 in combination with similarly situated lands in the region, significantly affect the
2 chemical, physical, and biological integrity of other covered waters.” *Rapanos*, 547
3 U.S. at 780; *N. Cal. River Watch*, 496 F.3d at 999-1000.
4

5 25. Section 505(a)(1) of the Act provides for citizen enforcement actions
6 against any “person” who is alleged to be in violation of an “effluent standard or
7 limitation...or an order issued by the Administrator or a State with respect to such a
8 standard or limitation.” See 33 U.S.C. §§ 1365(a)(1) and 1365(f).

9 26. Defendant MATTCO is a “person” within the meaning of section 502(5)
10 of the Act. See 33 U.S.C. § 1362(5).

11 27. An action for injunctive relief is authorized under section 505(a) of the
12 Act. See 33 U.S.C. § 1365(a)(1).

13 28. Each separate violation of the Act subjects the violator to a penalty of up
14 to \$51,570 per day for violations occurring after November 2, 2015; and up to
15 \$37,500 per day per violation for violations occurring prior to and including
16 November 2, 2015. See 33. U.S.C. §§ 1319(d) and 1365(a); 40 C.F.R. § 19.4
17 (Adjustment of Civil Monetary Penalties for Inflation).

18 29. Section 505(d) of the Act allows prevailing or substantially prevailing
19 parties to recover litigation costs, including fees for attorneys, experts, and
20 consultants. See 33 U.S.C. § 1365(d).

21 27 **B. California’s Storm Water Permit.**

22 28 30. The State Board is charged with regulating pollutants to protect

1 California's water resources. *See* Cal. Water Code § 13001.

2 31. Section 402(p) of the Act establishes a framework for regulating
3 industrial storm water discharge under the NPDES permit program. 33 U.S.C. §
4 1342(p).

5 32. Section 402(b) of the Act allows each state to administer an EPA-
6 approved NPDES permit program for regulating the discharge of pollutants, including
7 discharges of polluted storm water. *See* 33 U.S.C. § 1342(b).

8 33. States with approved NPDES permit programs are authorized by Section
9 402(b) to regulate industrial storm water discharges through the issuance of a
10 statewide general NPDES permit applicable to all industrial dischargers and/or
11 through individual NPDES permits issued to dischargers. *See* 33 U.S.C. § 1342(b).

12 34. California is a state authorized by EPA to issue NPDES permits. The
13 Permit is a statewide general NPDES permit issued by the State Board pursuant to the
14 Act.

15 35. Between 1997 and June 30, 2015, the Permit in effect in California was
16 Order No. 97-03-DWQ, which CCAT refers to herein as the "1997 Permit."

17 36. On July 1, 2015, California re-issued the Permit pursuant to Order No.
18 2014-0057-DWQ's NPDES, which is referred to herein as the "2015 Permit."

19 37. The 2015 Permit superseded the 1997 Permit, except for enforcement
20 purposes, and its terms are as stringent, or more so, than the terms of the 1997 Permit.
21 *See* 2015 Permit, Findings, ¶ 6.

1 38. Prior to beginning industrial operations, dischargers are required to apply
2 for coverage under the Permit by submitting a NOI to the State Board. 1997 Permit,
3 Finding #3; 2015 Permit, Findings, ¶ 17.
4

5 39. In order to discharge storm water lawfully in California, industrial
6 dischargers must secure coverage under the Permit and comply with its terms, or
7 obtain and comply with an individual NPDES permit. 1997 Permit, Finding #2; 2015
8 Permit, Findings, ¶ 12.

9
10 40. Compliance with the Permit constitutes compliance with the Act for
11 purposes of storm water discharges. 33. U.S.C. §§ 1311(b)(2)(A), 1311(b)(2)(E).
12 Conversely, violations of the Permit are violations of the Act. 1997 Permit, Section
13 C(1); 2015 Permit, Section XXI(A).
14
15

16 **C. The Permit's Discharge Prohibitions, Effluent Limitations, and**
17 **Receiving Water Limitations.**

18 41. The Permit contains a Discharge Prohibition on the direct or indirect
19 discharge of materials other than storm water (“non-storm water discharges”) that is
20 not otherwise authorized by an NPDES permit to waters of the United States. 1997
21 Permit, Section A(1); 2015 Permit, Section III(B).
22
23

24 42. The Permit contains an Effluent Limitation that requires permittee
25 facilities to reduce or prevent pollutants in storm water discharges through the
26 implementation of Best Available Technology Economically Achievable (“BAT”) for
27 toxic or non-conventional pollutants, and Best Conventional Pollutant Control
28

1 Technology (“BCT”) for conventional pollutants. 40 C.F.R. §§ 401.15-16; 1997
2 Permit, Section B(3); 2015 Permit, Section V(A). BAT and BCT include both
3 structural (e.g. installation of curbs to direct storm water flows) and non-structural
4 (e.g. sweeping) measures.

5
6 43. In order to comply with the statutory BAT/BCT mandate, covered
7 facilities must implement site-specific structural and non-structural Best Management
8 Practices (“BMPs”) designed to prevent or reduce discharges with pollutant
9 concentrations that violate the Permit, and therefore the Act.
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12 44. EPA’s NPDES Storm Water Multi-Sector General Permit for Industrial
13 Activities (“MSGP”) include numeric benchmarks for pollutant concentrations in
14 storm water discharges (“EPA Benchmarks”) that are numeric thresholds to aid in
15 determining whether a facility discharging industrial storm water had implemented the
16 requisite BAT and/or BCT as mandated by the Act. *See* United States Environmental
17 Protection Agency NPDES Multi-Sector General Permit for Storm Water Discharges
18 Associated with Industrial Activity, as modified effective May 9, 2009.
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21 45. EPA’s Benchmarks serve as objective measures for evaluating whether
22 the BMPs designed and implemented at a facility achieve the statutory BAT/BCT
23 standards. *See* MSGP, 80 Fed. Reg. 34,403, 34,405 (June 16, 2015); *see also* MSGP,
24 73 Fed. Reg. 56,572, 56,574 (Sept. 29, 2008); *see also* MSGP, 65 Fed. Reg. 64,746,
25 64,766-67 (Oct. 30, 2000).
26
27

28 46. The State Board established Numeric Action Levels (“NALs”) in the
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1 2015 Permit. *See* 2015 Permit, Section V(A). NALs are derived from, and function
2 similar to, EPA benchmarks. *See* 2015 Permit Fact Sheet, Section I(D)(5). NALs and
3 Benchmarks represent pollutant concentrations at which a storm water discharge
4 could impair, or contribute to impairing, water quality and/or affect human health.
5

6 47. The Permit also contains various Receiving Water Limitations. 1997
7 Permit, Receiving Water Limitation C(1)-(2); 2015 Permit, Section VI(A). Receiving
8 Waters are those surface or other waters to which pollutants are discharged from a
9 given facility.

10 48. The first Receiving Water Limitation is that stormwater discharges shall
11 not cause or contribute to an exceedance of any applicable water quality standard
12 (“WQS”). *Id.*

13 49. WQS are pollutant concentration levels determined by the State Board,
14 the various regional boards and/or the EPA to be protective of the beneficial uses of
15 the water that receive polluted discharges. WQS applicable to the discharges covered
16 by the Permit include, but are not limited to, those set out in the *Water Quality*
17 *Control Plan – Los Angeles Region: Basin Plan for the Coastal Watersheds of Los*
18 *Angeles and Ventura Counties*¹, California Regional Water Quality Control Board,
19 Los Angeles Region 4 (adopted June 13, 1994, as amended) (“Basin Plan”) and in the
20 Criteria for Priority Toxic Pollutants for the State of California (a.k.a. California
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¹ Available at http://www.waterboards.ca.gov/losangeles/water_issues/programs/basin_plan/.

1 Toxics Rule or “CTR”). 65 Fed. Reg. 31712 (May 18, 2000); 40 C.F.R. § 131.38.

2 50. The second Receiving Water Limitation is that storm water discharges
3 shall not adversely impact human health or the environment. 1997 Permit, Receiving
4 Water Limitation C(1); 2015 Permit, Section VI(B).

5 51. The third Receiving Water Limitation is that concentrations of pollutants
6 in storm water discharges shall not threaten to cause pollution or a public nuisance.
7
8 See 2015 Permit, Section VI(C).

9 52. A facility is in violation of the Permit’s Receiving Water Limitation
10 when its storm water discharges contain pollutant levels that: i) exceed an applicable
11 WQS; ii) exceed levels known to adversely impact aquatic species and the
12 environment; or iii) threaten to cause pollution.

13 53. The Facilities’ stormwater discharges drain first to Reach 2 of the Los
14 Angeles River (“River”), through Reach 1 of the River, the Los Angeles River
15 Estuary and the San Pedro Bay, and ultimately to the Pacific Ocean via (collectively
16 “Receiving Waters”).

17 54. The Regional Board identifies beneficial uses of the Receiving Waters
18 and establishes water quality standards in the Basin Plan. The beneficial uses of the
19 Receiving Waters include municipal and domestic water supply, groundwater
20 recharge, water contact recreation,² non-contact water recreation,³ warm freshwater

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² Contact recreation use includes fishing and wading. Basin Plan at 2-2.

³ Non-contact water recreation use is defined as “[u]ses of water for recreational activities involving proximity to water,
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1 habitat, wildlife habitat, wetland habitat, marine habitat, rare, threatened, or
2 endangered species, preservation of biological habitats, migration of aquatic
3 organisms, spawning, reproduction and/or early development, and shellfish
4 harvesting.

5 55. The Basin Plan includes a narrative toxicity standard which states that
6 “[a]ll waters shall be maintained free of toxic substances in concentrations that are
7 toxic to, or that produce detrimental physiological responses in, human, plant, animal,
8 or aquatic life.” Basin Plan at 3-38.

9 56. The Basin Plan includes a narrative oil and grease standard which states
10 that “[w]aters shall not contain oils, greases, waxes, or other materials in
11 concentrations that result in a visible film or coating on the surface of the water or on
12 objects in the water, that cause nuisance, or that otherwise adversely affect beneficial
13 uses.” Basin Plan at 3-29.

14 57. The Basin Plan provides that “[w]aters shall not contain suspended or
15 settleable material in concentrations that cause nuisance or adversely affect beneficial
16 uses.” Basin Plan at 3-37.

17 58. The Basin Plan provides that “[s]urface waters shall not contain
18 concentrations of chemical constituents in amounts that adversely affect any
19 designated beneficial use.” Basin Plan at 3-24.

20 but not normally involving contact with water where water ingestion is reasonably possible. These uses include, but are
21 not limited to, picnicking, sunbathing, hiking, beachcombing, camping, boating, tidepool and marine life study, hunting,
22 sightseeing, or aesthetic enjoyment in conjunction with the above activities.” Basin Plan at 2-2.

1 59. The Basin Plan provides that “[w]aters shall not contain floating
2 materials, including solids, liquids, foams, and scum, in concentrations that cause
3 nuisance or adversely affect beneficial uses.” Basin Plan at 3-26.
4

5 60. The Basin Plan provides that “[w]aters shall be free of coloration that
6 causes nuisance or adversely affects beneficial uses.” Basin Plan at 3-25.
7

8 61. The Basin Plan provides that “[w]aters shall be free of changes in
9 turbidity that cause nuisance or adversely affect beneficial uses.” Basin Plan at 3-38.
10

11 62. The Basin Plan provides that “[w]aters shall not contain taste or odor-
12 producing substances in concentrations that impart undesirable tastes or odors to fish
13 flesh or other edible aquatic resources, cause nuisance, or adversely affect beneficial
14 uses.” Basin Plan at 3-37.
15

16 63. The U.S. EPA has adopted freshwater numeric water quality standards in
17 the CTR for zinc of 0.120 mg/L (Criteria Maximum Concentration – “CMC”), for
18 copper of 0.013 mg/L (CMC), cadmium of 0.0043 mg/L (CMC), and for lead of
19 0.0025 mg/L (Criteria Continuous Concentration – “CCC”).⁴
20

21 64. According to the 2012 303(d) List of Impaired Water Bodies,⁵ Reaches 1
22 and 2 of the Los Angeles River are impaired by various pollutants, including pH,
23 cyanide, diazinon, lead, nutrients, ammonia, cadmium, coliform bacteria, copper,
24 trash, zinc, and oil. The Los Angeles River Estuary is impaired by, among other
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26

27 ⁴ These values are expressed as a function of total hardness (mg/L) in the water body and correspond to a total hardness
28 of 100 mg/L, which is the default listing in the California Toxics Rule.

5 Available at http://www.waterboards.ca.gov/water_issues/programs/tmdl/integrated2012.shtml

1 pollutants, chlordane, sediment toxicity, and trash.⁶ The Los Angeles/Long Beach
2 Harbor is impaired by at least chrysene, copper, sediment toxicity, mercury, and zinc.⁷
3 The San Pedro Bay is impaired by sediment toxicity, and the Long Beach City Beach,
4 one of the San Pedro Bay beaches, is impaired by indicator bacteria.⁸

6 65. The Receiving Waters are ecologically significant. Although pollution
7 and habitat destruction have drastically altered the natural ecosystem, the Receiving
8 Waters are still essential habitat for dozens of fish and bird species, as well as macro-
9 invertebrate and invertebrate species. Storm water and non-storm water contaminated
10 with sediment, heavy metals, and other pollutants harm the special aesthetic and
11 recreational significance the Receiving Waters have for people in surrounding
12 communities, including CCAT's members. The public's use of the Receiving Waters
13 for water contact sports and fishing exposes many people to toxic metals, pathogens,
14 bacteria and other contaminants in storm water and non-storm water discharges. Non-
15 contact recreational and aesthetic opportunities, such as wildlife observation, are also
16 impaired by polluted discharges to the Receiving Waters.

21 66. Discharges of pollutants at levels above WQS contribute to the
22 impairment of the beneficial uses of the waters receiving the discharges and constitute
23 violations of the Permit and Act.

24 67. Discharges with pollutant levels in excess of the CTR criteria, the Basin

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28⁶ *Id.*

⁷ *Id.*

⁸ *Id.*

1 Plan standards, and/or other applicable WQS are violations of the Permit's Receiving
2 Water Limitations. WQS applicable to the Facilities include, but may not be limited
3 to, those detailed in TABLE 1. MATTCO must analyze all stormwater samples for
4 these parameters.

6 **TABLE 1**
7 WATER QUALITY STANDARDS APPLICABLE TO MATTCO'S FACILITIES

Parameter	Source	Numeric Limit
pH	Basin Plan	6.5-8.5 s.u.
Al	Basin Plan	1.0 mg/L
Cu	CTR	0.013 mg/L (Criteria Max. Concentration ⁹)
Zn	CTR	0.120 mg/L (Criteria Max. Concentration)
Pb	CTR	0.065 mg/L (Criteria Max. Concentration)
Ni	CTR	0.470 mg/L (Criteria Max. Concentration)
Cd	CTR	0.0043 mg/L (Criteria Max. Concentration)
Cr (VI)	CTR	0.016 mg/L (Criteria Max. Concentration)

20
21 68. Benchmarks and/or NALs established for conventional and industry
22 specific pollutants discharged from the Facilities, and for which MATTCO must
23 analyze stormwater samples, are summarized below at TABLE 2.
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28 ⁹ Criteria Maximum Concentration ("CMC") equals the highest concentration of a pollutant to which aquatic life can be exposed for a short period of time without deleterious effects.

TABLE 2

PARAMETER/ POLLUTANT	EPA BENCHMARK	ANNUAL NAL	INSTANTANEOUS MAXIMUM NAL
pH	6.0-9.0 s.u.	n/a	6.0-9.0 s.u.
TSS	100 mg/L	100 mg/L	400 mg/L
O&G	15 mg/L	15 mg/L	25 mg/L
SC	200 uhmos/cm	200 uhmos/cm	n/a
TOC	110 mg/L	110 mg/L	n/a
COD	120 mg/L	120 mg/L	n/a
Al	0.75 mg/L	0.75 mg/L	n/a
N+N	0.68 mg/L	0.68 mg/L	n/a
Fe	1.0 mg/L	1.0 mg/L	n/a
Zn	0.117 mg/L	0.26 mg/L	n/a
Ni	1.02 mg/L	1.02 mg/L	n/a
Mg	0.064 mg/L	0.064 mg/L	n/a
Cu	0.0332 mg/L	0.0332 mg/L	n/a
Pb	0.0816 mg/L	n/a	n/a

D. The Permit's Planning and BMP Design Requirements.

69. Dischargers must develop and implement a Storm Water Pollution Prevention Plan (“SWPPP”) at the time industrial activities begin. 1997 Permit, Sections A(1)(a) and E(2); 2015 Permit, Sections I(I) (Finding 54) and X(B).

70. The SWPPP must identify and evaluate sources of pollution associated with industrial activities that may affect the quality of stormwater, and authorized non-stormwater discharges from the facility. 1997 Permit, Section A(2); 2015 Permit,

1 Section X(G).

2 71. The SWPPP must identify and describe site-specific BMPs to reduce or
3 prevent pollutants associated with industrial activity in storm water and authorized
4 non-stormwater discharges. 1997 Permit, Section A(2); 2015 Permit, Section X(H).

5 72. The SWPPP must also include BMPs that achieve pollutant discharge
6 reductions attainable via BAT and BCT. 1997 Permit, Order Section A(2); 2015
7 Permit, Section I(D) (Finding 32), Section X(C).

8 73. The SWPPP must include: i) a narrative description and summary of all
9 industrial activity, potential sources of pollution, and potential pollutants; ii) a site
10 map indicating the storm water conveyance system, associated points of discharge,
11 direction of flow, areas of actual and potential pollutant contact, including the extent
12 of pollution-generating activities, nearby water bodies, and pollutant control
13 measures; iii) a description of storm water management practices; iv) a description of
14 the BMPs to be implemented to reduce or prevent pollutants in storm water discharges
15 and authorized non-storm water discharges; v) the identification and elimination of
16 non-storm water discharges; vi) identify and locate where materials are being shipped,
17 received, stored, handled, as well as typical quantities of such materials and the
18 frequency with which they are handled; vii) a description of dust and particulate
19 generating activities; and viii) a description of individuals and their current
20 responsibility for developing and implementing the SWPPP. 1997 Permit, Section
21 A(1)-(10); 2015 Permit, Section X.

1 74. The 2015 Permit further requires certain SWPPP enhancements,
2 including a more comprehensive assessment of potential pollutant sources and more
3 specific BMP descriptions. *See* 2015 Permit Sections X(G)(2), (4), (5).
4

5 75. The objectives of the SWPPP are to: i) identify and evaluate sources of
6 pollutants associated with industrial activities that may affect the quality of storm
7 water discharges; ii) to identify, design and implement site-specific BMPs to prevent
8 the exposure of pollutants to storm water; and iii) to reduce or prevent the discharge
9 of polluted storm water from industrial facilities. 1997 Permit, Section A(2); 2015
10 Permit, Section X.
11

12 76. To ensure compliance, the SWPPP must be evaluated and revised as
13 necessary. *See* 1997 Permit Sections A(9)-(10); *see also* 2015 Permit § X(B).
14

15 77. Failure to develop or implement an adequate SWPPP (or revise an
16 existing SWPPP, as necessary) constitutes an independent Permit violation. *See* 2015
17 Permit, Fact Sheet, Section I(1).
18

19 78. The Permit also requires that the discharger conduct an annual
20 comprehensive site compliance evaluation that includes a review of all visual
21 observation records, inspection reports and sampling analysis data, a visual inspection
22 of all potential pollutant sources for evidence of, or the potential for, pollutants
23 entering the drainage system, a review and evaluation of all BMPs to determine
24 whether the BMPs are adequate, properly implemented and/or maintained, or whether
25 additional BMPs are needed, and a visual inspection of equipment needed to
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1 implement the SWPPP. 1997 Permit, Sections A(9)(a)-(c); 2015 Permit, Section XV.

2 79. Section A(9)(d) of the 1997 Permit requires that the discharger submit an
3 evaluation report that includes an identification or personnel performing the
4 evaluation, date(s) of the evaluation(s) necessary SWPPP revisions, a schedule for
5 implementing SWPPP revisions, any incidents of non-compliance and the corrective
6 actions taken, and a certification that the discharger is in compliance with the Permit.
7
8 1997 Permit; Section A(9)(d)(i)-(vi). If certification cannot be provided, the
9 discharger must explain in the evaluation report why the facility is not in compliance.
10
11 1997 Permit, Section A(9)(d). The evaluation report shall be submitted as part of the
12 Annual Report specified in Section B(14) of the Permit. 1997 Permit, Section
13 A(9)(d).
14
15

16 **E. The Permit's Monitoring and Reporting Requirements.**

17 80. The 1997 Permit required facility operators to develop and implement a
18 monitoring and reporting program (“M&RP”) when industrial activities begin at the
19 facility. 1997 Permit, Sections B(1)-(2) and E(3). The 2015 Permit also requires
20 implementation of a M&RP. 2015 Permit, Sections X(I) and XI.
21
22

23 81. The objectives of the M&RP are to inform discharges about the
24 effectiveness of BMPs designed in the planning phase and implemented on the
25 ground. Where the M&RP indicates that BMPs are not adequate to prevent or reduce
26 pollutants in storm water discharges, permittees have an obligation to re-design BMPs
27 and/or improve BMP implementation as necessary to ensure that storm water
28

1 discharges are in compliance with the Permit's Discharge Prohibitions, Effluent
2 Limitations and Receiving Water Limitations. *See* 1997 Permit, Section B(2); *see*
3 *also* 2015 Permit, Sections X(I) and XI.
4

5 82. The 2015 Permit requires facility operators to visually observe, monitor
6 and sample storm water discharges to ensure that the facility is complying with its
7 obligations under the Permit. 2015 Permit, Sections I(J) (Findings 55-56) and XI.
8

9 83. The M&RP must be revised as necessary to ensure Permit compliance.
10 1997 Permit, Section B(2)(d); 2015 Permit, Section XI(A)(4).
11

12 84. Discharges must conduct monthly visual observations of storm water
13 discharges as part of a legally adequate M&RP. 1997 Permit, Section B(4)(a); 2015
14 Permit, Section XI(A).
15

16 85. Dischargers must observe and document the presence of any floating and
17 suspended materials, oil and grease, discolorations, turbidity, or odor in a discharge,
18 and the source of any pollutants in storm water discharges from the facility.
19

20 86. Dischargers are required to maintain detailed records of each
21 observation, and corrective action taken to reduce or prevent pollutants from
22 contacting storm water discharges. *See* 1997 Permit, Section B(4)(c); *see also* 2015
23 Permit, Section XI(A)(3).
24

25 87. The Permit requires dischargers to revise the SWPPP as necessary to
26 ensure that BMPs are effectively reducing and/or eliminating pollutants from entering
27 surface waters from the facility. 1997 Permit, Section B(4)(c), 2015 Permit, Section
28 COMPLAINT

1 XI(B)(1).

2 88. The Permit requires dischargers to visually observe and collect samples
3 of storm water discharges from each location where storm water is discharged. 1997
4 Permit, Sections B(5) and B(7); 2015 Permit, Section XI(B)(4).

5 89. Section B(5)(a) of the 1997 Permit required dischargers to collect storm
6 water samples during the first hour of discharge from the first storm event of the Wet
7 Season and at least one other storm event in the Wet Season. All storm water
8 discharge locations must be sampled. Facility operators that do not collect samples
9 from the first storm event of the Wet Season are still required to collect samples from
10 two other storm events of the Wet Season and must explain in the Annual Report why
11 the first storm event was not sampled.

12 90. Section B(5)(b) required that sampling conducted pursuant to the 1997
13 Permit occur during scheduled facility operating hours that are preceded by at least
14 three (3) working days without storm water discharge.

15 91. Section XI(B)(1) of the 2015 Permit requires sampling from a Qualifying
16 Storm Event (“QSE”), which is a precipitation event that produces a discharge for at
17 least one drainage area and is preceded by forty-eight (48) hours with no discharge
18 from any drainage area.

19 92. Dischargers are required to collect samples of storm water within 4 hours
20 of the start of facility operations if the QSE began within the previous 12-hour period,
21 e.g. for storms with discharges that begin during the night for facilities with day-time
22 COMPLAINT

1 operations. 2015 Permit, Section XI(B)(5)(b).

2 93. Section XI(B)(2) of the 2015 Permit requires dischargers to collect and
3 analyze storm water samples from two (2) QSEs within the first half of each reporting
4 year (July 1 to December 31), and two (2) QSEs within the second half of each
5 reporting year (January 1 to June 30).

6 94. Section XI(B)(11) of the 2015 Permit, among other requirements,
7 provides that permittees must submit all sampling and analytical results for all
8 samples via SMARTS within thirty (30) days of obtaining all results for each
9 sampling event.

10 95. The Permit requires dischargers to analyze each sample for pH, specific
11 conductance (“SC”), TSS, and either total organic carbon (“TOC”) or Oil & Grease
12 (“O&G”). 1997 Permit, Section B(5)(c)(i); 2015 Permit, Sections XI(B)(6)(a)-(b).

13 96. The Permit also requires dischargers to analyze each sample for site-
14 specific toxic chemicals and other pollutants associated with the specific industrial
15 operations at the facility. 1997 Permit, Section B(5)(c)(ii); 2015 Permit, Section
16 XI(B)(6)(c).

17 97. Section XI(B)(6) of the 2015 Permit requires dischargers to analyze
18 storm water samples for additional industrial parameters related to receiving waters
19 with 303(d) listed impairments, or approved Total Maximum Daily Loads.

20 98. According to information and belief, CCAT alleges that the parameters
21 applicable to MATTCO pursuant to the requirements summarized in paragraphs 96
22 COMPLAINT

1 and 97 are detailed above in TABLE 1 and TABLE 2.

2 99. Section B(14) of the 1997 Permit required that dischargers submit an
3 Annual Report to the applicable Regional Board by July 1 of each year. The Annual
4 Report must include a summary of visual observations and sampling results, an
5 evaluation of the visual observations and sampling and analysis results, laboratory
6 reports, the annual comprehensive site compliance evaluation report specified in
7 Section A(9), an explanation of why a facility did not implement any activities
8 required, and the records specified in Section B(13)(i).

9 100. Section XVI of the 2015 Permit requires dischargers to submit a
10 Compliance Checklist with each Annual Report that indicates whether the discharger
11 complies with, and has addressed all applicable requirements of the 2015 Permit, an
12 explanation for any noncompliance of requirements within the reporting year, as
13 indicated in the Compliance Checklist, an identification, including page numbers
14 and/or sections, of all revisions made to the SWPPP within the reporting year, and the
15 date(s) of the Annual Evaluation.

16 **V. STATEMENT OF FACTS**

17 **A. The Facilities.**

18 101. The NOI for MATTCO on file with the Regional Board lists the
19 Facilities' Waste Discharger Identification No. as 4 19I025496 for the Minnesota
20 Avenue facility. The NOI contains no reference to and contains no information about
21 MATTCO's industrial activity on Jackson Street. Similarly, the SWPPP dated May
22 COMPLAINT

1 22, 2015 on file with the Regional Board makes no reference to and contains no
2 information about industrial activity on Jackson Street.

3 102. The NOI certifies that the Facilities cover 4 acres.
4

5 103. According to information available to CCAT, the Facilities are metal
6 forging operations. Activities include the development, design, manufacture and
7 testing of engineered forged metal products for aerospace, defense, oil & gas,
8 transportation and power generation industries.

9 104. The MATTCO website indicates the use of the following forging
10 materials at the Facilities: nickel (Ni), cobalt (Co), titanium (Ti), aluminum (Al),
11 magnesium (Mg), steel, stainless steel, carbon and various “super” alloys.
12

13 105. The Facilities’ SWPPP contains no specific reference to any of these
14 materials.
15

16 106. U.S. EPA’s Industrial Storm Water Fact Sheet for AA: Fabricated Metal
17 Products Manufacturing Facilities¹⁰ indicates that polluted discharges from industrial
18 activities like those conducted at the Facilities commonly contain substances affecting
19 pH; metals, such as iron, aluminum, and nickel; toxic metals, such as lead, zinc,
20 cadmium, chromium, and copper; organics; chemical oxygen demand (“COD”);
21 biological oxygen demand (“BOD”); total suspended solids (“TSS”)¹¹; fuel additives,
22
23
24
25

26 ¹⁰ Available at https://www3.epa.gov/npdes/pubs/sector_aa_fabmetal.pdf
27 ¹¹ High concentrations of TSS degrade optical water quality by reducing water clarity and decreasing light available to
28 support photosynthesis. TSS has been shown to alter predator prey relationships (for example, turbid water may make it
difficult for fish to hunt prey). Deposited solids alter fish habitat, aquatic plants, and benthic organisms. TSS can also be
harmful to aquatic life because numerous pollutants, including metals and polycyclic aromatic hydrocarbons, are

1 gas/diesel fuel, oil and grease (“O&G”); coolants and solvents; acid/alkaline waste;
2 and, trash and debris. EPA’s Industrial Storm Water Fact Sheet for Sector AB:
3 Transportation Equipment, Industrial, or Commercial Machinery Manufacturing
4 Facilities¹² indicates that polluted discharges from industrial activities like those
5 conducted at the Facilities commonly contain TSS; O&G; organics; solvents;
6 acid/alkaline wastes; heavy metals; toxic metals such as lead, arsenic, cadmium, and
7 chromium; COD; gasoline and diesel. Many of these pollutants are on the list of
8 chemicals published by the State of California as known to cause cancer, birth defects,
9 and developmental or reproductive harm. Discharges of polluted storm water to the
10 local surface waters pose carcinogenic and reproductive toxicity threats to the public
11 and adversely affect the aquatic environment.

12 **B. The Facilities’ Discharges and Receiving Waters.**

13 107. The Facilities are located approximately 1.3 miles east of the Los
14 Angeles River.

15 108. The SWPPP describes two discharge points at the Minnesota Avenue
16 facility—identified and sampled as Outfall #1 and Outfall #2—both of which are
17 located within the Facilities’ borders.

18 109. According to the SWPPP, the majority of stormwater discharged by

19 20 21 22 23 24 25 26
27 28 absorbed onto TSS. Thus, higher concentrations of TSS results in higher concentrations of toxins associated with those sediments. Inorganic sediments, including settleable matter and suspended solids, have been shown to negatively impact species richness, diversity, and total biomass of filter feeding aquatic organisms on bottom surfaces.

¹² Available at https://www.epa.gov/sites/production/files/2015-10/documents/sector_ab_transport.pdf.

1 MATTCO enters local storm drains operated by the County of Los Angeles via inlets
2 located within the Facilities' borders, and then travel below grade to the Los Angeles
3 River and other Receiving Waters (described in paragraph 53 above).
4

5 110. The SWPPP (at page 10) also indicates that some stormwater,
6 specifically stormwater potentially contaminated by contact with Hazardous Material
7 and Hazardous Waste Storage, is discharged in "sheet flow" onto Minnesota Avenue.
8

9 111. The SWPPP contains no description of discharge or discharge points at
10 the Jackson Street address.
11

12 112. CCAT is informed and believes, and thereon alleges, that each of the
13 Receiving Waters is a water of the United States.
14

15 113. CCAT is informed, believes, and thereon alleges that the Facilities'
16 polluted discharges cause, threaten to cause, and/or contribute to the impairment of
17 water quality in the Receiving Waters.
18

19 114. On information and belief, CCAT alleges that storm water and non-storm
20 water contaminated with sediment, heavy metals, and other pollutants harm the
21 special aesthetic and recreational significance the Receiving Waters have for people in
22 surrounding communities, including CCAT members.
23

24 115. The public's use of the Receiving Waters for water contact sports and
25 fishing exposes many people to toxic metals, pathogens, bacteria and other
26 contaminants in storm water and non-storm water discharges. Non-contact
27 recreational and aesthetic opportunities, such as wildlife observation, are also
28

1 impaired by polluted discharges to the Receiving Waters.

2 **VI. VIOLATIONS OF THE CLEAN WATER ACT AND PERMIT**

3 116. During the period before (Jan. 1992-May 2015) and since (May 2015-
4 present) enrolling in the Permit, MATTCO has failed to carry out its obligations under
5 Permit and Act.

6 117. The Facilities are in ongoing violation of the Permit, and violations span
7 both the 1997 Permit and 2015 Permit.

8 118. MATTCO has failed to conduct requisite monitoring/sampling of
9 stormwater discharges; failed to develop a legally adequate M&RP; failed to develop,
10 implement and/or update a legally adequate SWPPP to ensure the development and
11 implementation of BMPs that achieve BAT/BCT; and certified and filed demonstrable
12 false Annual Reports.

13 119. MATTCO is subject to civil penalties for all violations of the Clean
14 Water Act detailed below occurring since March 2, 2012.

15 120. On information and belief, Plaintiff alleges that the Facilities' have failed
16 and continue to fail to reduce or prevent pollutants associated with industrial activity
17 in storm water discharges through implementation of BMPs that achieve BAT/BCT as
18 required by the Act and Permit.

19 **A. Ongoing Violations of the Permit's M&RP Requirements.**

20 121. MATTCO has been and continues to conduct operations at the Facilities
21 with a legally inadequate M&RP.

1 122. Information available to CCAT indicates that the Facilities have failed
2 and continue to fail to collect and analyze qualifying storm events as required by the
3 Permit. Based on information and belief, CCAT alleges that MATTCO did not take a
4 single sample until 2017.

5 123. During the 2011-2012, 2012-2013, and 2013-14 Permit periods (July 1-
6 June 30), the Facilities were operating without having enrolled in the Permit, and
7 conducted no sampling or analysis of storm water data in violation of the Act.

8 124. Despite having certified on June 19, 2015 at page 8 of its Annual Report
9 for 2014-2015 that “[t]he facility immediately implemented a storm-water monitoring
10 plan [upon] receiv[ing] coverage under the Industrial General Permit for Storm Water
11 Discharges in May of 2015,” MATTCO failed to collect or analyze storm water
12 samples during two qualifying storm events on Friday May 8, 2015 and Thursday
13 May 14, 2015. Both of these storm events were sampled by neighboring facilities.
14

15 125. On June 17, 2016, MATTCO again wrongly certified on page 5 of its
16 Annual Report that “[d]uring the 2015-2016 storm season, there were no storm water
17 discharge events, during scheduled facility operating hours that met all of the
18 parameters in the general permit. Therefore, no samples were taken.”

19 126. Information available to CCAT demonstrates that MATTCO’s claim is
20 false. During the relevant timeframe there were as many as fifteen qualifying storm
21 events, nearly all of which were sampled by at least one industrial facility in the City
22 of Paramount.

1 127. MATTCO's failure to conduct sampling and monitoring as required by
2 the Permit demonstrates that it has failed to develop, implement, and/or revise a
3 legally adequate M&RP, and is therefore violating the Act.
4

5 128. MATTCO has failed and continues to fail to analyze samples for all
6 parameters required by the Permit.
7

8 129. MATTCO has failed and continues to fail to collect samples from all
9 discharge locations at the Facilities.
10

11 130. On information and belief, CCAT alleges that MATTCO has failed and
12 continues to fail to submit Annual Reports that comply with the Permit's reporting
13 requirements. MATTCO has falsely certified that: (1) a complete Annual
14 Comprehensive Site Compliance Evaluation was done pursuant to the Permit; (2) the
15 SWPPP's BMPs address existing potential pollutant sources and additional BMPs are
16 not needed; and (3) the SWPPP complies with the Storm Water Permit, or will
17 otherwise be revised to achieve compliance. Information available to CCAT indicates
18 that these certifications are erroneous. For example, storm water samples collected
19 from the Facilities contain concentrations of pollutants above Benchmarks and WQS,
20 thus demonstrating that the SWPPP's BMPs do not adequately address existing
21 potential pollutant sources.
22

23 **B. Failure to Prepare, Implement, Review and Update an Adequate
24 SWPPP; Failure to Develop and/or Implement Adequate BMPs.**
25

26 131. On information and belief, CCAT alleges that MATTCO is operating, as
27

1 of May 18, 2017, without a legally adequate SWPPP or M&RP. MATTCO has failed
2 and continues to fail to adequately develop, implement and/or revise a legally
3 adequate SWPPP in violation of the Permit and Act.
4

5 132. MATTCO's SWPPP fails to describe legally adequate BMPs for any
6 pollutants at the Jackson Street facility.
7

8 133. The Facilities' SWPPP fails to adequately identify and evaluate industrial
9 processes and sources of pollution as required by the Permit and Act. *See* 2015
10 Permit, Section X(A)(4)-5) & (C)(1)(a). For example, the SWPPP does not
11 acknowledge, identify or evaluate "outdoor processing areas" or "outdoor work
12 areas," both of which are described in expert sources on which the SWPPP is
13 purportedly based.
14

15 134. Information available to CCAT from a reconnaissance visit to the
16 Facilities on Dec. 8, 2016 documented extremely concerning industrial activities
17 taking place outdoors without being mentioned or evaluated in the SWPPP.
18

19 135. CCAT witnessed as many as 5 workers wearing industrial suits (full
20 body/head cover and breathing/filter system) grinding donut-shaped metal parts
21 (approx. 12"-15" diameter) with medium-sized power grinders (using approx. 5"-7"
22 abrasive discs) in an outdoor, unenclosed location identified on the site map as
23 "grinding area."
24

25 136. The SWPPP fails to describe and develop adequate BMPs. Despite the
26 obvious potential for grinding activities to result in pollutants likely to affect the
27 COMPLAINT
28

1 quality of industrial storm water, the word “grinding” appears only 3 times in the
2 SWPPP, and not once to describe an industrial activity. The only BMPs described for
3 any outdoor industrial activities are: 1) elevating metal materials; 2) a generic
4 reference to “good housekeeping;” 3) inspecting outdoor areas; 4) employee training;
5 and 5) locking gates to restrict access. CCAT alleges these BMPs are insufficient to
6 meet the Act’s mandate and the Permit’s requirements.
7
8

9 137. The SWPPP fails to describe adequate BMPs to address the “sheet flow”
10 onto Minnesota Avenue that is potentially contaminated by the Facilities’ hazardous
11 material and waste storage area.
12

13 138. MATTCO’s SWPPP fails to identify or describe any specific metals as
14 potential pollutants.
15

16 139. The SWPPP lacks essential details in identifying pollutants, evaluating
17 pathways of exposure and describing site-specific BMPs. At no point does the
18 SWPPP elaborate on specific processes used on the various metals present at the site
19 (grinding, cutting, sawing, deburring, melting, etc.), the potential pathways by which
20 the different metals might be exposed to storm water, or specific BMPs to address the
21 various pathways (broom sweeping vs. regenerative sweeper truck).
22
23

24 140. On information and belief, CCAT alleges that MATTCO has failed and
25 continues to fail to develop and implement adequate BMPs more generally. CCAT
26 witnessed and documented substantial quantities of raw materials, finished materials,
27 waste products and trash on the ground and fully exposed to the elements without the
28 COMPLAINT

1 benefit any observable BMPs.

2 141. CCAT believes and alleges that MATTCO is under an obligation, given
3 the overall layout and use of the Facilities' campus, to develop and implement
4 exposure minimization BMPs. However, the SWPPP cursorily concludes its
5 assessment of such BMPs by stating that they are “[n]ot applicable to this facility.”
6

8 142. Information available to CCAT indicates that the Facilities have failed
9 and continue to fail to reduce or prevent pollutants associated with industrial activity
0 in storm water discharges through implementation of BMPs that achieve BAT/BCT as
1 required by the Act through the Permit.
2

3 143. Plaintiff is informed and believes, and thereupon alleges, that all of the
4 violations alleged in this Complaint are ongoing and continuing.
5

CLAIMS FOR RELIEF

FIRST CAUSE OF ACTION

**Defendant's Discharges of Contaminated Storm Water in
Violation of the Permit Effluent Limitations and the Act
(33 U.S.C. §§ 1311(a), 1342, 1365(a), and 1365(f))**

144. CCAT re-alleges and incorporates all of the preceding paragraphs as if
fully set forth herein.

4
5
6
7
8 145. CCAT is informed and believes, and thereon alleges, that Defendants
failed and continue to fail to reduce or prevent pollutants associated with industrial
activities through the implementation of BMPs at the Facilities that achieve
BAT/BCT.

1 146. CCAT is informed and believes, and thereon alleges, that discharges of
2 storm water containing levels of pollutants that do not achieve compliance with
3 BAT/BCT standards from the Facilities occur every time storm water is discharged.
4 Defendant's failure to develop and/or implement BMPs that achieve the pollutant
5 discharge reductions attainable via BAT or BCT at the Facilities is a violation of the
6 Storm Water Permit and the Act. *See* 1997 Permit, Effluent Limitation B(3); *see also*
7 2015 Permit, Section I(D) (Finding 32), Section V(A); *see also* 33 U.S.C. § 1311(b).

8
9
10 147. Defendants violate and will continue to violate the Permit's Effluent
11 Limitations each and every time storm water containing levels of pollutants that do
12 not achieve BAT/BCT standards discharges from the Facilities.

13
14 148. Each and every violation of the Permit's Effluent limitations is a separate
15 and distinct violation of Section 301(a) of the Act, 33 U.S.C. § 1311(a).

16
17 149. Defendants' violations of the Permit's Effluent Limitations and the Act are
18 ongoing and continuous.

19
20 150. By committing the acts and omissions alleged above, MATTCO is
21 subject to an assessment of civil penalties for each and every violation of the Act
22 occurring from March 2, 2012 to the present, pursuant to sections 309(d) and 505 of
23 the Act, 33 U.S.C. §§ 1319(d), 1365, and 40 C.F.R. § 19.4.

24
25 151. An action for injunctive relief is authorized by section 505(a) of the Act,
26 33 U.S.C. § 1365(a). Continuing commission of the acts and omissions alleged above
27 would irreparably harm Plaintiff and the citizens of the State of California, for which
28 COMPLAINT

harm CCAT has no plain, speedy, or adequate remedy at law.

2 152. An action for declaratory relief is authorized by 28 U.S.C. § 2201(a)
3 because an actual controversy exists as to the rights and other legal relations of the
4
5 Parties.

6 WHEREFORE, Plaintiff prays for judgment against Defendants as set forth
7
8 hereafter.

SECOND CAUSE OF ACTION
**Defendant's Discharges of Contaminated Storm Water in
Violation of the Permit's Receiving Water Limitations and the Act
(33 U.S.C. §§ 1311(a), 1342, 1365(a), and 1365(f))**

2 153. Plaintiff re-alleges and incorporates all of the preceding paragraphs as if
3
4 fully set forth herein.

5 154. CCAT is informed and believes, and thereon alleges, that discharges of
6 storm water containing levels of pollutants that adversely impact human health and/or
7 the environment from the Facilities occur each time storm water discharges from the
8 Facilities.

1 155. CCAT is informed and believes, and thereon alleges, that storm water
2 containing levels of pollutants that cause or contribute to exceedances of water quality
3 standards has been discharged and continues to be discharged from the Facilities each
4 time stormwater is discharged from the Facilities.
5

26 156. Plaintiff is informed and believes, and thereupon alleges, that since at least
27
28 March 2, 2012, Defendants have discharged polluted storm water from the Facilities

1 causing or contributing to the violation of the applicable WQS and that adversely
2 impact human health or the environment in violation of the Receiving Water
3 Limitation of the General Permit.
4

5 157. Every day, since at least March 2, 2012, that Defendants have discharged
6 polluted storm water from the Facilities in violation of the Permit is a separate and
7 distinct violation of Section 301(a) of the Act, 33 U.S.C. § 1311(a). These violations
8 are ongoing and continuous.

9 158. Each and every violation of the Storm Water Permit's Receiving Water
10 Limitations is a separate and distinct violation of section 301(a) of the Act, 33 U.S.C.
11
12 § 1311(a).

13 159. By committing the acts and omissions alleged above, MATTCO is
14 subject to an assessment of civil penalties for each and every violation of the Act
15 occurring from March 2, 2012 to the present, pursuant to sections 309(d) and 505 of
16 the Act, 33 U.S.C. §§ 1319(d), 1365, and 40 C.F.R. § 19.4.

17 160. An action for injunctive relief is authorized by Act section 505(a),
18 33 U.S.C. § 1365(a). Continuing commission of the acts and omissions alleged above
19 would irreparably harm Plaintiff and the citizens of the State of California, for which
20 CCAT has no plain, speedy, or adequate remedy at law.

21 161. An action for declaratory relief is authorized by 28 U.S.C. § 2201(a)
22 because an actual controversy exists as to the rights and other legal relations of the
23 Parties.
24

WHEREFORE, Plaintiff prays for judgment against Defendants as set forth hereafter.

THIRD CAUSE OF ACTION
**Defendant's Failure to Prepare, Implement, Review, and Update
an Adequate Storm Water Pollution Prevention Plan
(Violations of Permit Conditions and the Act, 33 U.S.C. §§ 1311, 1342)**

162. Plaintiff re-alleges and incorporates all of the preceding paragraphs as if fully set forth herein.

163. Defendants have not developed and implemented an adequate SWPPP for the Facilities.

164. Each day since March 2, 2012, that Defendants do not develop, implement and update an adequate SWPPP for the Facilities is a separate and distinct violation of the General Permit and Section 301(a) of the Act, 33 U.S.C. § 1311(a).

165. Defendants have been in violation of the SWPPP requirements every day since March 2, 2012. Violations continue each day that an adequate SWPPP for the Facilities is not developed and fully implemented.

166. By committing the acts and omissions alleged above, MATTCO is subject to an assessment of civil penalties for each and every violation of the Act occurring from March 2, 2012 to the present, pursuant to sections 309(d) and 505 of the Act, 33 U.S.C. §§ 1319(d), 1365, and 40 C.F.R. § 19.4.

167. An action for injunctive relief is authorized by Act section 505(a),
33 U.S.C. § 1365(a). Continuing commission of the acts and omissions alleged above

1 would irreparably harm Plaintiff and the citizens of the State of California, for which
2 harm CCAT has no plain, speedy, or adequate remedy at law.

168. An action for declaratory relief is authorized by 28 U.S.C. § 2201(a)
4
5 because an actual controversy exists as to the rights and other legal relations of the
6 Parties.

8 WHEREFORE, Plaintiff prays for judgment against Defendants as set forth
9 hereafter.

FOURTH CAUSE OF ACTION
**Defendant's Failure to Develop and Implement an
Adequate Monitoring and Reporting Program
(Violation of Permit Conditions and the Act, 33 U.S.C. §§ 1311, 1342)**

4 169. Plaintiff re-alleges and incorporates all of the preceding paragraphs as if
5 fully set forth herein.

7 170. Defendants have not developed and implemented an adequate monitoring
8 and reporting program for the Facilities.

171. Each day since March 2, 2012, that Defendants have not developed and
implemented an adequate monitoring and reporting program for the Facilities in
violation of the General Permit is a separate and distinct violation of the General
Permit and Section 301(a) of the Act, 33 U.S.C. § 1311(a). The absence of requisite
collection/monitoring and analytical results are ongoing and continuous.

6 172. By committing the acts and omissions alleged above, MATTCO is
7
8 subject to an assessment of civil penalties for each and every violation of the Act

1 occurring from March 2, 2012 to the present, pursuant to sections 309(d) and 505 of
2 the Act, 33 U.S.C. §§ 1319(d), 1365, and 40 C.F.R. § 19.4.

4
5
6
7
8 173. An action for injunctive relief is authorized by Act section 505(a),
33 U.S.C. § 1365(a). Continuing commission of the acts and omissions alleged above
would irreparably harm Plaintiff and the citizens of the State of California, for which
harm CCAT has no plain, speedy, or adequate remedy at law.

9 174. An action for declaratory relief is authorized by 28 U.S.C. § 2201(a)
0 because an actual controversy exists as to the rights and other legal relations of the
1
2 Parties.

3 WHEREFORE, Plaintiff prays for judgment against Defendants as set forth
4
hereafter.

FIFTH CAUSE OF ACTION

**Defendant's Failure to Accurately Certify Compliance in Annual Reports in
Violation of the Permit and the Act
(33 U.S.C. §§ 1311, 1342, 1365(a) and 1365(f))**

175. Plaintiff re-alleges and incorporates all of the preceding paragraphs as if
fully set forth herein.

2 176. Defendants have not accurately certified compliance with the General
3 Permit in each of the annual reports submitted to the Regional Board since at least
4
5 March 2, 2012.

177. Each day since at least March 2, 2012, that Defendants do not accurately
certify compliance with the General Permit is a separate and distinct violation of the

1 General Permit and Section 301(a) of the Act, 33 U.S.C. § 1311(a). Defendants
2 continue to be in violation of the General Permit's certification requirement each day
3 they maintain an inaccurate certification of compliance with the General Permit.
4

5 178. By committing the acts and omissions alleged above, MATTCO is
6 subject to an assessment of civil penalties for each and every violation of the CWA
7 occurring from March 2, 2011 to the present, pursuant to sections 309(d) and 505 of
8 the Act, 33 U.S.C. §§ 1319(d), 1365, and 40 C.F.R. § 19.4.

9 179. An action for injunctive relief is authorized by Act section 505(a),
10 33 U.S.C. § 1365(a). Continuing commission of the acts and omissions alleged above
11 would irreparably harm Plaintiff and the citizens of the State of California, for which
12 harm CCAT has no plain, speedy, or adequate remedy at law.
13

14 180. An action for declaratory relief is authorized by 28 U.S.C. § 2201(a)
15 because an actual controversy exists as to the rights and other legal relations of the
16 Parties.
17

18 WHEREFORE, Plaintiff prays for judgment against Defendants as set forth
19 hereafter.
20

21 **RELIEF REQUESTED**
22

23 Wherefore, Plaintiff respectfully requests that this Court grant the following
24 relief:
25

26 a. Declare Defendant(s) to have violated and to be in violation of the Act
27 as alleged herein;
28

- b. Enjoin Defendant(s) from discharging polluted storm water from the Facilities unless authorized by the Permit;

c. Enjoin Defendant(s) from further violating the substantive and procedural requirements of the Permit;

d. Order Defendant(s) to immediately implement storm water pollution control technologies and measures that are equivalent to BAT or BCT and prevent pollutants in the Facilities' storm water from contributing to violations of any water quality standards;

e. Order Defendant(s) to comply with the Permit's monitoring and reporting requirements, including ordering supplemental monitoring to compensate for past monitoring violations;

f. Order Defendant(s) to prepare a SWPPP consistent with the Permit's requirements and implement procedures to regularly review and update the SWPPP;

g. Order Defendant(s) to provide Plaintiff with reports documenting the quality and quantity of their discharges to waters of the United States and their efforts to comply with the Act and the Court's orders;

h. Order Defendant(s) to pay civil penalties of up to \$37,500 per day per violation for each violation of the Act since March 21, 2012, up to and including November 2, 2015, and up to \$51,570 for violations occurring after November 2, 2015 pursuant to Sections 309(d) and 505(a) of the Act, 33 U.S.C. §§ 1319(d), 1365(a) and 40 C.F.R. §§ 19.1 - 19.4;

- i. Order Defendant(s) to take appropriate actions to restore the quality of waters impaired or adversely affected by their activities;

j. Award Plaintiff's costs (including reasonable investigative, attorney, witness, compliance oversight, and consultant fees) as authorized by the Act, 33 U.S.C. § 1365(d); and,

k. Award any such other and further relief deemed appropriate by the Court.

Dated: MAY 19 , 2017

Respectfully submitted,

By:

Jesse C. Swanhuyser
Attorney for Plaintiff